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## **TOWN OF CARLISLE**

### **OFFICE OF Zoning Board of Appeals**

**66 Westford Street  
Carlisle, MA 01741  
978-369-5326**

## **Minutes: Board of Appeals, May 6, 2019**

### **Call to Order**

The meeting was called to order at 7:30 p.m. in the Town Hall, 66 Westford Street. Chair Snell advised those present that the hearing was being recorded and asked if anyone present was also recording the hearing. Helen Lyons from the Mosquito indicated that she was recording the hearing.

### **Roll Call and Declaration of Quorum**

Chair Snell recognized the required quorum of Members. Present were Member Travis Snell (Chair), Manuel Crespo (Clerk), Steven Hinton. Also present were Associate Members Lisa Davis Lewis, Gretchen Anderegg and Eric Adams.

### **Statement of Compliance**

The issue of compliance regarding posting of the hearing was confirmed by the Chair. According to Secretary Wang, the Meeting Notice was posted in Town Hall on April 29, 2019.

### **Public Comment – Approval of Agenda**

Chair Snell asked those present if there were any matters other than those listed on the agenda which the public would like to add to the agenda. When none were offered, the agenda was accepted.

### **New Business – Hearing for case 1908**

Chair Snell opened the public hearing for application 1908, the application of Eric Lawson requesting a Special Permit under Zoning Bylaw Section 3.2.2.9 for the operation of a landscape business and to store equipment needed to operate Bee Kind Landscaping. The property is located in the Residence District B at 239B Lowell Street.

Present were the Applicant Eric Lawson, Secretary Peggy Wang, Mosquito reporter Helen Lyons and members of the public. Secretary Wang reported that no correspondence had been received regarding the application.

### **Applicant's Testimony**

The Applicant, Eric Lawson, told the Board he is applying for a Special Permit to allow for the storage of equipment needed to operate Bee Kind Landscaping. The equipment included a trailer, a lawn mower, a leaf blower and hand tools. He is the sole employee and has no plans to have any other employees. He wants to stay small and if the business grows too big it will be passed off. The Applicant said he does not offer snow plowing and currently has 15 lawns that he mows and does plantings. When asked by the Board if clippings are taken away, he said they are dumped on site where the work occurs.

### **Board's comments**

The Board informed the Applicant that if there are any changes in the number of employees, trucks or other vehicles in the future he will be required to reapply for a new or amended Special Permit.

### **Public comments**

Chair Snell asked those present if there were any comments. When none were offered, the public hearing was closed.

### **Deliberations and Decision**

The Board deliberated the case and determined there were no problems or issues with the business plan presented by the Applicant and found it appropriate to grant the Special Permit for period of one (1) year. At the Zoning Board of Appeals meeting on May 6, 2019 the Board voted 3-0 in favor of the Special Permit, Hinton (aye), Snell (aye) and Crespo (aye) with the standard findings and conditions for a landscape business and the follow specific conditions:

- 1) The landscape equipment shall be stored in the garage or on the trailer at all times unless in use.
- 2) The permit is granted for a period of one (1) year to expire on May 5, 2020.
- 3) Equipment and vehicles may be replaced in like kind, but not added onto in number or size. Equipment includes one (1) truck, one (1) landscaping trailer (approximately 8 feet long), one (1) lawn mower, one (1) leaf blower and assorted hand tools.
- 4) The hours of operation for the landscape business shall be  
Monday through Friday 7:00 am to 7:00 pm  
Saturday 8:00 am to 5:00 pm  
Sunday – no hours of operation allowed on Sunday

### **Appeals**

The Applicant was advised that the written Decision will be prepared and signed within fourteen (14) days. A copy of the signed Decision will be mailed to the Applicant and abutters at which time the twenty (20) day appeal period begins. At the end of the appeal period, if no appeal is filed, the Applicant will receive an original signed copy of the Decision which must be recorded with the Register of Deeds in Lowell, MA and shall be filed with the Building Commissioner before becoming final.

### **Hearing for case 1907**

Chair Snell opened the public hearing for case 1907, the application of Linda Rubenstein requesting a Special Permit under bylaw 3.2.2.7 to operate a commercial kennel. The property is located with the Residence B District at 134 Ember Lane. Present were the Applicant, Linda Rubenstein, Secretary Peggy Wang, Mosquito reporter Helen Lyons and members of the public. Secretary Wang reported that the following documents had been received:

- 1907\_01 Letter of support from Kelly Doyle, Concord resident and a client
- 1907\_02 Letter of support from Keith Therrien, an abutter at 128 Ember Lane
- 1907\_03 Letter of support from Peggy Greenough, Concord resident and a client
- 1907\_04 Letter of support from Bonnie and Peter Krims, Concord residents and clients
- 1907\_05 Letter of support from Kathie DeRoche, Concord residents and a client
- 1907\_06 Letter of support from Christine Zinke, Westford resident and a client
- 1907\_07 Letter of support from Stefani Keene, an abutter at 123 Ember Lane
- 1907\_08 Letter of support from Lindsey Parkers, Concord resident and a client
- 1907\_09 Letter of support from Liz Paley, Concord resident and a client
- 1907\_10 Letter of concern from Attorney Mitali Biswas, representing a group of abutters
- 1907\_11 Letter of support from Stan Durlacher, Carlisle resident at 933 Concord Street
- 1907\_12 Letter of support from Krista Stengrevics, Carlisle resident at 1184 Westford Street
- 1907\_13 Letter from the Applicant's Attorney Kevin Smith detailing reason why Special Permit should be granted
- 1907\_14 Letter of support from Jennifer Silversone, Carlisle resident at 121 Carriage Way
- 1907\_15 Letter of support from Anne Wilke, Lexington resident and a client
- 1907\_16 Letter from the Applicant regarding noise
- 1907\_17 Letter of support from Lori and Sean Monahan, Concord residents and clients
- 1907\_18 Letter from Carlisle Rubbish regarding waste pick up schedule
- 1907\_19 Letter of support from Debby Merz, Carlisle resident at 168 Bingham Road
- 1907\_20 Letter of support from Laura Baliestiero, Carlisle resident at 153 Log Hill Road
- 1907\_21 Letter from the Applicant regarding the business
- 1907\_22 Letter from Carlisle Police Chief regarding lack of noise complaints
- 1907\_23 Letter from Carlisle Building Commissioner stating there have been no complaints in 15 year
- 1907\_24 Letter with spread sheet from the Applicant with dog, street and tail activity since April 1, 2019 hearing
- 1907\_25 Letter from the Applicant in response to the neighbors' petition

1907\_26 Letter from the Applicant with aerial view of property  
1907\_27 Letter of support from William Smith, Carlisle resident at 137 Bingham Road  
1907\_28 Letter from the Applicant with video of her dog  
1907\_29 Letter from the Applicant with video of her dog watching children  
1907\_30 Letter from the Applicant with video of dogs at play  
1907\_31 Letter from the Applicant with video of the dogs watching people on the adjacent trail  
1907\_32 Letter from the Applicant with video of the dogs watching horses on the adjacent trail  
1907\_33 Letter from the Applicant with video of the dogs watching a runner on the adjacent trails  
1907\_34 Letter from the Applicant with video of the dogs watching a carpenter working on the deck  
1907\_35 Letter from the Applicant with video of the dogs watching the neighbors  
1907\_36 Letter from the Applicant with video of noise from abutter at 161 Ember Lane  
1907\_37 Letter from the Applicant with video of the dogs' reaction to a UPS truck  
1907\_38 Letter from the Applicant with video of her dog playing  
1907\_39 Letter from the Applicant with video of children playing in front of the house  
1907\_40 Letter from the Applicant with video of dogs' reaction to a bobcat operating in the backyard  
1907\_41 Letter from the Applicant with video of a client leaving  
1907\_42 Letter from the Applicant with information regarding the business  
1907\_43 Letter from the Applicant with picture of Morse trail  
1907\_44 Letter from the Applicant in response to abutters' statement  
1907\_45 Letter of support from Barbara Ruskin, Watertown resident and a client  
1907\_46 Letter of support from Alys Scott, Concord resident and a client  
1907\_47 Letter from the Applicant with picture of backyard  
1907\_48 Letter of support from Chris Worthy, Marlborough resident and a client  
1907\_49 Statement by the Applicant read at the hearing

#### **Applicant's testimony**

The Applicant, Linda Rubenstein, read a prepared statement (1907\_49) with details regarding the operation of the business and the relationship with the abutters. The Applicant added that she is requesting to continue the operation of the dog daycare business as she has for the past 15 years with up to 12 dogs.

#### **Board's comments and questions**

When the Board asked about parking for the dropping off and picking up of the dogs, the Applicant explained that clients always pull in to the driveway, never park on the street. She arranges with the client to stagger their drop off and pick up times to avoid issues in the driveway. The Board inquired about the website section "Meet the staff". The Applicant stated that there are no paid employees and that the "staff" is her son and two other people who live in the house. Regarding the number of dogs present on the average day, the Applicant said that up to 12 dogs have been present but only at school vacation time and holidays. She provided an average number of dogs currently coming to her home per day as detailed in a daily log of activities (1907\_24).

The Board asked about waste pick up and signage. The Applicant said that waste is picked up 3 times a day and removed weekly by Carlisle Rubbish (1907\_18), adding that there is no signage.

The Board reviewed with the Applicant the spread sheets submitted (1907\_24) that provide the data regarding the traffic on Ember Lane, the length of time the dogs bark and the number of dogs present per day.

#### **Public comments**

Attorney Mitali Biswas, representing a group of abutters, distributed to the Board a letter of concern (1907\_10). She noted that the Applicant must meet the traffic, noise and safety concerns of the abutters. Her clients have observed that the Applicant is operating a major business in a residential district. The Attorney spoke about a video that was sent to the Board that indicated dogs barking day and night up to one hour at a time. She explained that the abutters purchased their property to live in a rural setting and any type of barrier proposed would take away from the character of the neighborhood.

Chair Snell asked if the abutters have been hearing barking for over an hour at a time. Abutter John Fry, 132 Ember Lane, said that today he heard barking for an hour while he was working from home. Jude Fry, 132 Ember Lane, confirmed that there was barking for one hour today. Mr. Fry said that the barking could be heard in his house when the windows were closed. He noted that he was not aware the Applicant was operating a business out of her home until he received the public hearing notice. Mr. Fry expressed concern that the Applicant intends to “ramp up” the business noting that as the business revenues increase, the abutters bear the impact.

Neelam Sihag, an abutter at 163 Ember Lane, complained about the barking and traffic. David Casebier, an abutter at 161 Ember Lane, questioned the Applicant’s ability to manage the dogs’ barking including her own dog Sunny. Robert Morgan, an abutter at 157 Ember Lane, noted that there have been 2 traffic accidents in the past 10 years and that the Applicant’s tenants park on the street to accommodate the business clients’ use of the driveway.

Keith Therrien, an abutter at 128 Ember Lane, said that he has never heard dogs barking for one hour and told the Board that he supports a 12 dog limit. Stefani Keene, an abutter at 123 Ember Lane, said that she had not seen traffic impact while waiting for the school bus with her 5 children.

Lisa Earie, 63 Old East Street, as a client of the Applicant, spoke in favor of the business. Dr. Charles Bradley, 296 Fiske Street, spoke in favor of the business. Stan Dulacher, 933 Concord Street, said that he has not witnessed long periods of barking during the time he works at the house as a carpenter. Heather Keefe, 251 Stearns Street, as a client, spoke in favor of the business.

### **Board’s response to public comments**

The Board asked the opposing abutters if there were any conditions under which the abutters would support a decision to grant the Special Permit. Abutter at 161 Ember Lane David Casebier said no. He said that the Town would not be able to enforce any conditions included in a Special Permit.

Chair Snell noted that the Board had heard plenty of public comments but did not want to close the public hearing at this point in case additional information from the Applicant would be required. The Board discussed the testimony of the Applicant and those present. Each Member spoke about their site visit or multiple visits to the Applicant’s property and abutters’ property.

Regarding the issues of noise from barking, it was noted that the Applicant’s dog was the main source of barking based on site visits. It was noted that if the Special Permit were denied the Applicant’s dog would continue to be there. The Board discussed the impact of the property’s topography and lack of acoustical fencing appears to facilitate the sound traveling to abutters’ homes.

The Board spoke about the need for a plan that addresses the topics discussed at the hearing and determined that a Business Operation Plan from the Applicant that addresses the following was required:

- 1) Number of dogs allowed at any time including the Applicant’s dog
- 2) Driveway parking
- 3) Limited hours the dogs can be outside
- 4) Employees – formal statement that the Applicant is the sole employee
- 5) Definition of an employee
- 6) Record keeping – number of drop off and pick up, number of dogs per day
- 7) All parking off street
- 8) Inspections – Town requirement
- 9) Screening – visual and acoustical
- 10) Staggered pick up and drop off times
- 11) Limit on turn-over per day
- 12) Total number of dogs per month

### **Continuance**

The Applicant requested a continuance until the next Board meeting to allow time to prepare a Business Operation Plan. The public hearing was continued until June 3, 2019.

### **Adjournment**

The meeting adjourned at 9:55 pm.

Respectfully submitted  
Peggy Wang